

In the High Court of Judicature at Madras

Dated 7.12.2004

Coram:-

The Hon'ble Mr. Justice F.M.IBRAHIM KALIFULLA

W.P.No.1009 of 1998

&

W.M.P.No.1489 of 1998

S.Narayanan

Vs.

... Petitioner

1. The State of Tamilnadu through
-its Secretary,
Rural Development and Local
Administration,
Fort St. George,
Chennai 600 009.
 2. The District Collector,
Nagercoil.
 3. The Commissioner,
Rajakkamangalam Panchayat Union
at Pazhavilai,
Kanyakumari District.
 4. Appointment Council,
Rajakkamangalam Panchayat Union
at Pazhavilai,
Kanyakumari District.
 5. Director,
Rural Development,
Chennai-15.
- ... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
praying for issuance of a Writ of Certiorarified Mandamus, as stated
therein.

For Petitioner : Ms.Chitra Sampath
For Respondents : Mr.R.Chandrasekar,
Govt. Advocate for RR1,
2 and 5.
Mr.K.R.Tamizhmani
For R3 and R4.

ORDER

The petitioner seeks for the following reliefs:-

"For the issuance of Certiorarified Mandamus calling for the records in connection with G.O.Ms.No.230 (Rural Development T.4), dated 17.7.1997 and quash the same and directing the respondents to consider the respondent (mistakenly for the present petitioner) for the appointment as a jeep driver or in the alternative to promote him to the post of Road Inspector and pass such further or other orders"

2. The petitioner's father was originally employed as Gang Mazdoor in the 4th respondent Panchayat Union. After his demise, though initially the petitioner was employed in the same post of Gang Mazdoor on a temporary basis, the said service was terminated and at the intervention of this Court in W.P.No.2478 of 1991, he came to be appointed again as Gang Mazdoor on a permanent basis by order, dated 22.8.1996. The grievance of the petitioner is that though he had been working right from the year 1984 and subsequently from 1996 and possess a Driving Licence, he was not being considered for the post of Road Inspector while in other neighbouring Panchayats the persons who were similarly placed were promoted to the higher post of Road Inspector. It is also the claim of the petitioner that by the impugned G.O.Ms.No.230, dated 17.7.1997 when one post of Office Assistant was converted as a Jeep Driver in order to meet the contingency of driving a new jeep allotted to the 4th respondent Panchayat, the respondents took the stand that such newly created posts can be made available only to a qualified existing Office Assistant or to such other Office Assistants who could be posted as Jeep Driver. In fact, the 4th respondent recommended for the appointment of the petitioner as Jeep Driver in his recommendation, dated 14.11.1997 to the 2nd respondent since the petitioner was holding a valid Driving Licence. Nevertheless, since the said recommendation was not considered, the petitioner has come forward with the present Writ Petition.

3. The 1st respondent has filed a counter affidavit in which it is pointed out that after the issuance of G.O.Ms.No.230, dated 17.7.1997, a subsequent G.O. came to be issued in G.O.Ms.No.262, 15.12.1998 wherein it has been ordered that while appointing Jeep Drivers for the newly allotted Jeeps, priority might be given to qualified Office Assistants, Tractor Drivers, Road Roller Drivers and Cleaners, Night Watchman, Record Clerk and Electricians in Panchayat Unions and that they can be appointed through the Appointment Committee as per the guidelines issued in G.O.191, dated 7.9.1998.

4. Therefore, from what is stated in the counter Affidavit filed on behalf of the 1st respondent and paragraph 3 of the impugned

G.O.Ms.No.230, dated 17.7.1997 while the post of Jeep Driver can be created by converting one post of Office Assistant, the filling up of the such posts can be either by a qualified Office Assistant or by such other category of employees mentioned in G.O.Ms.No.262, dated 15.12.1998. Unfortunately, the post held by the petitioner viz., Gang Mazdoor is not one of the posts that finds a place in the subsequent G.O.Ms.No.262, dated 15.12.1998. Therefore, even if it were to be held that the newly created post of Jeep Driver can be filled up not only by converting any person holding the post of Office Assistant with the required qualification, but also by considering the other categories of employees viz., Tractor Drivers, Road Roller Drivers and Cleaners, Night Watchman, Record Clerks and Electricians in the Panchayat Union Service, a Gang Mazdoor cannot be considered for that post. Therefore, in the light of the above said G.O.Ms.No.230, dated 17.7.1997 as well as G.O.Ms.No.262, dated 15.12.1998, there is no scope for considering the claim of the petitioner for being considered to the post of Jeep Driver newly created in the 4th respondent Panchayat. If the petitioner is aggrieved against non-inclusion the post of Gang Mazdoor in G.O.Ms.No.262, dated 15.12.1998, it is open to the petitioner to work out his remedy in the manner known to law. However, in the light of the prescriptions as found in the G.Os., the petitioner's prayer cannot be countenanced in this writ petition.

5. Writ Petition therefore, fails and the same is dismissed with the above said observations. No costs. Consequently, connected W.M.P.No.1489 of 1998 is also dismissed.

Ssn

Sd/-
Asst.Registrar

/True Copy/

सत्यमेव जयते

Sub-Assistant Registrar

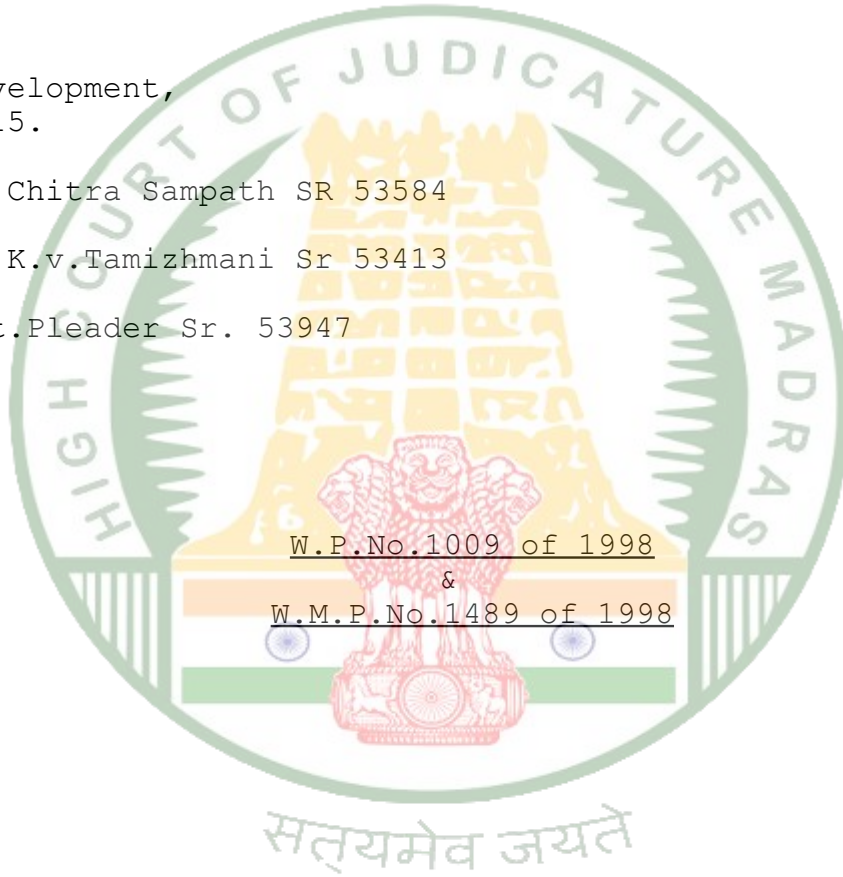
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To

1. The Secretary,
State of Tamilnadu,
Rural Development and Local Admn.,
Fort St. George,
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2. The District Collector,
Nagercoil.

3. The Commissioner,
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at Pazhavilai,
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 4. Appointment Council,
Rajakkamangalam Panchayat Union
at Pazhavilai,
Kanyamukari District.
 5. Director,
Rural Development,
Chennai-15.
- 1 cc to M/s.Chitra Sampath SR 53584
- 1 cc to M/s.K.v.Tamizhmani Sr 53413
- 1 cc to Govt.Pleader Sr. 53947

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